IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE THIRTIETH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION NO : 21899 of 2004

Between:

Kodipaka Chandram @ Nagaraju, S/o. Pundarikam,
R/o.H. No.7-91, Dayanand Road, Jogipet, Medak District

..... PETITIONER

AND

1 The Commissioner of Civil Supplies, Ex. Offico Secretary,

Government of A.P. Food And Agriculture Department,

Secretariat Buildings, Hyderabad.
2 The Collector (CS) Medak District at Sangareddy.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction more in the nature of Writ of Mandmaus declaring the inaction of the 1st respondent not to transfer the appeal under Section 6-C of E.C. Act filed on 30-7-96 by the petitioner to the District and Sessions Judge, Medak District at Sangareddy as per the amendment in the Essential Commodities Special Provisions Act as illegal, improper, null and void.

Counsel for the Petitioner: MR.V.H.V.R.R.SWAMY

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court at the admission stage made the following :

ORDER:

The petitioner is a Dealer in Edible Oils. Proceedings were initiated against him under Section 6-A of the Essential Commodities Act (for short 'the Act') on the basis of inspection of the shop on 09.06.1995. The second respondent passed an order under Section 6-B of the Act on 01.07.1996 directing confiscation of the seized stock. Aggrieved by the same, the petitioner availed the remedy of appeal under Section 6-C of the Act before the first respondent. After the appeal was filed, the Act was amended restoring the appellate power to the Criminal Courts.

The grievance of the petitioner is that though several years have elapsed since the amendment, the first respondent has not transferred the appeal to the concerned Criminal Court.

Heard learned counsel for the petitioner and learned Government Pleader for Civil Supplies.

Before the Act was amended with effect from 11.03.1998, the appellate power against the orders passed under Section 6-B of the Act was conferred on the first respondent. Consequent on the amendment, the concerned District and Sessions Court became the appellate authority. Therefore, the appeal preferred by the petitioner before the first respondent ought to have been transferred. There does not exist any justification on the first respondent in having held the appeal with him for the past several years knowing fully well that he is not the competent appellate authority.

Hence, the writ petition is allowed directing the first respondent to transfer the appeal to the Court of District and Sessions Judge, Medak District at Sangareddy, within two weeks from the date of receipt of this order.

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30.11.2004

Jsu

Note: Issue C.C in two days

(B/o)

Jsu

To

1 The Commissioner of Civil Supplies, Ex. Offico Secretary,

Government of A.P. Food And Agriculture Department,

Secretariat Buildings, Hyderabad.
2 The Collector (CS) Medak District at Sangareddy.

3 The District & Sessions Judge, Medak District at Sangareddy.

4 2 CCs to the Government Pleader for Civil Supplies, High Court Buildings, Hyderabad. (O.U.T)

5 2CD copies